

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7866

BILL NUMBER: HB 1001

NOTE PREPARED: May 2, 2003

BILL AMENDED: Apr 27, 2003

SUBJECT: Budget Bill.

FIRST AUTHOR: Rep. Crawford

FIRST SPONSOR: Rep. R. Meeks

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill makes appropriations for the state, transfers money among funds, and changes the distributions made to local government. The bill also changes certain program requirements. It also increases and extends certain fees and provides for a temporary quality assessment fee on nursing facilities.

The bill provides a school funding formula and authorizes bonding for certain projects. It establishes the Indiana Economic Development Corporation and expands the authority of the Port Commission to finance and construct certain projects. It also includes various other economic development initiatives. The bill makes other changes affecting state tax deductions and credits, property taxation, the state lottery, riverboats, pensions, corrections, Medicaid, and education.

Effective Date: July 1, 2002 (Retroactive); January 1, 2003 (Retroactive); Upon Passage; June 1, 2003; July 1, 2003; January 1, 2004.

Explanation of State Expenditures: *Biennial Budget* - This bill establishes the state budget appropriations for FY 2004 and FY 2005. Total General Fund and Property Tax Replacement Fund appropriations are \$11,086.0 M for FY 2004 (a 5.7% increase over FY 2003) and \$11,308.3 M for FY 2005 (a 2.0% increase over FY 2004).

Of this amount, total operating appropriations are \$10,885.8 M for FY 2004 (a 5.8% increase over FY 2003) and \$11,108.1 M for FY 2005 (a 2.0% increase over FY 2004). Appropriations for capital projects represent \$400.4 M for the biennium.

Appropriations from the General Fund and the Property Tax Replacement Fund are provided by functional category in the following table.

| General Fund and Property Tax Replacement Fund: FY 2004-FY 2005. | | | |
|---|----------------|----------------|-----------------|
| Functional Category | FY 2004 | FY 2005 | % Change |
| General Government | 329,400,034 | 333,358,234 | 1.2% |
| Corrections | 589,260,499 | 591,413,140 | 0.4% |
| Other Public Safety | 106,043,592 | 106,044,165 | 0.0% |
| Conservation and Environment | 78,374,312 | 78,466,731 | 0.1% |
| Economic Development | 52,341,958 | 51,341,958 | -1.9% |
| Transportation | 465,000 | 465,000 | 0.0% |
| Mental Health | 240,696,230 | 240,696,230 | 0.0% |
| Public Health | 68,594,547 | 68,814,715 | 0.3% |
| Medicaid | 1,266,419,812 | 1,266,419,812 | 0.0% |
| Family and Children | 229,046,215 | 229,046,215 | 0.0% |
| Social Services and Veterans | 227,807,215 | 227,807,215 | 0.0% |
| Higher Education | 1,474,395,108 | 1,527,717,937 | 3.6% |
| Education Administration | 56,745,362 | 56,745,362 | 0.0% |
| Tuition Support - Gen. Fund | 2,053,342,946 | 2,074,488,779 | 1.0% |
| Tuition Support - PTR Funds | 1,603,407,054 | 1,624,011,221 | 1.3% |
| Social Security - Teachers | 2,403,792 | 2,403,792 | 0.0% |
| Teachers Retirement | 305,529,000 | 346,832,000 | 13.5% |
| Other Local Schools | 220,530,192 | 186,386,645 | -15.5% |
| Other Education | 11,668,403 | 11,668,403 | 0.0% |
| PTR and Homestead Credits | 1,933,744,068 | 2,048,400,451 | 5.9% |
| Distributions - Gen. Fund | 35,585,733 | 35,585,733 | 0.0% |
| Subtotal - Operating | 10,885,801,072 | 11,108,113,738 | 2.0% |
| | | | |
| Higher Education Construction | 15,298,219 | 15,298,219 | |
| Other Construction | 184,924,164 | 184,924,164 | |
| Subtotal - Capital Projects | 200,222,383 | 200,222,383 | |
| | | | |
| Grand Total | 11,086,023,455 | 11,308,336,121 | 2.0% |
| * Appropriations "for the biennium" are apportioned 50% for each fiscal year. ** The appropriations in this table represent only those appropriations provided in HEA 1001-2003. | | | |

Appropriations from dedicated and federal funds for the biennium are presented in the following table.

| Dedicated and Federal Appropriations: FY 2004-FY 2005. | | | |
|---|----------------|----------------|-----------------|
| Functional Category | FY 2004 | FY 2005 | % Change |
| BIF & Lottery/Gaming Surplus | 4,816,014 | 4,816,014 | 0.0% |
| Other Dedicated - Operating | 1,190,093,831 | 1,192,114,055 | 0.2% |
| Other Dedicated - Construction | 27,137,940 | 27,137,940 | 0.0% |
| Tobacco Settlement | 169,591,726 | 171,991,726 | 1.4% |
| Federal Funds | 662,225,994 | 668,893,994 | 1.0% |
| Total Dedicated | 2,053,865,505 | 2,064,953,729 | 0.5% |

[SEC. 38] *Rainy Day Fund*: The Budget Agency, with approval of the Governor and after review by the Budget Committee, may transfer funds from the Counter-Cyclical Revenue and Economic Stabilization Fund (Rainy Day Fund) to the General Fund at any time during either fiscal year, if the Budget Director makes a determination that the General Fund has insufficient funds to meet its statutory obligations. The balance of the Rainy Day Fund was \$269.2 M as of June 30, 2002.

[SEC. 39, 40] *Intermittent Employees*: The bill removes Public Employees' Retirement Fund (PERF) benefits from intermittent employees. Based on a five-year average number of intermittent employees (2,875), this provision is estimated to save approximately \$475,000 for each year of the biennium.

[SEC. 41] *Lottery Transfer to Teachers' Retirement Fund (TRF)*: The bill requires the TRF Board to utilize the annual transfer of surplus Lottery revenue that would otherwise go to the Pension Stabilization Fund only to reduce the employer contribution rate that school corporations would otherwise pay during FY 2004 and FY 2005 for teachers covered by the 1996 Account. Under current statute, \$30.0 M annually in surplus Lottery revenue is deposited in the Pension Stabilization Fund to reduce the accrued unfunded liability of the TRF.

[SEC. 64] *Medicaid Provisions for School Corporations*: The bill also provides that 3% of the federal reimbursement for Medicaid paid claims that are submitted by school corporations are to be distributed to the General Fund for program administration. The remainder of the federal reimbursement is to be distributed to the school corporation that billed the claim. Currently, school corporations are classified as qualified Medicaid providers to allow the billing of medically necessary services that the corporations provide to students - generally at 100% school funding. Services such as speech therapy may qualify for reimbursement if the student is Medicaid eligible. Medicaid is funded with 38% state funds and 62% federal funds. Under this program currently, the school may bill for services, and the state retains the 38% state share to pay for the service and returns the 62% federal share to the school corporation. This provision would require that 3% of the federal share be returned to the state General Fund to provide funding for the administration of the program. Currently, few corporations take advantage of this program; the FY 2002 total paid claims were \$3.6 M. Under the provisions of this bill and current participation levels, \$66,960 would be returned to the General Fund for program administration.

[SEC. 65, 66] *Reductions to Medicaid Optional Services*: The bill requires the Office of Medicaid Policy

and Planning (OMPP) to adopt emergency rules to reduce Medicaid spending to the level of the General Fund appropriation for Medicaid - Current Obligations in this bill. To the extent that necessary reductions affect optional services, the reductions may be made on a pro rata basis; however, the Office may not eliminate the provision of any optional service. Based on the April Medicaid forecast of the General Fund Current Obligation Budget line item, the Office would need to achieve savings of \$77.1 M in FY 2004 and \$185.9 M in FY 2005, or \$263 M for the Biennium in order to accomplish this requirement.

[SEC. 67] Pharmacy Plus 1115 Demonstration Waiver: The bill also allows OMPP, with the approval of the Governor and the review of the Budget Committee, to apply for an amendment to the Pharmacy Plus 1115 Demonstration waiver application to increase the income eligibility standards from 135% to 185% of the federal poverty level. The ultimate potential cost of this provision would be dependent upon the number of individuals who enroll and the extent to which the benefit is used. The Pharmacy Plus waiver has a cap of 30,000 participants; enrollment in the program as of February 2003 was 12,342, well below the program cap.

[SEC. 68] Medicaid Provider Reporting: The bill also requires that Medicaid providers that dispense goods or services such as prescription drugs to Medicaid recipients are required to report to the Office all rebates, discounts, and other price concessions that the provider receives from a supplier of goods or services dispensed or provided to Medicaid recipients. The fiscal impact of this provision is unknown at this time, although some level of savings to the state is assumed.

[SEC. 69] Other Medicaid Provisions: The bill would allow OMPP to apply for a waiver to implement mandatory risk-based managed care in any county where the Office determines it would be feasible and cost effective. The Office has estimated that nine additional counties may have the resources and systems in place to support mandatory risk-based managed care. With a phased implementation, it is estimated that total Medicaid savings may be \$831,000 (\$316,000 in state funds) for FY 2004 and \$4.66 M (\$1.77 M in state funds) for FY 2005.

[SEC. 71 - 80] Medicaid Real Property Lien Provisions: This bill removes a provision that prohibits OMPP from: (1) obtaining a lien against a person lawfully residing in the home of a Medicaid recipient who provides care to the recipient in the home; and (2) enforcing a lien if the Medicaid recipient is survived by a family member. The bill automatically terminates a lien if the Office does not commence foreclosure within two years after the Medicaid recipient's death. It also reduces the \$125,000 estate recovery exemption for jointly held property to \$75,000.

The bill repeals the portion of the Medicaid law that provides for subordination of the lien to the security interest of a financial institution that lends money for certain purposes; however, it provides that a Medicaid lien is subordinate to the security interest of a financial institution that loans money to be used as operating capital for the operation of a farm, a business, or as income-producing real property.

The bill also eliminates the lien exemption of \$125,000. OMPP estimates the fiscal impact of the elimination of the \$125,000 lien exemption on the real estate assets of recipients to be between \$4.5 M (\$1.7 M in state funds) and 8.9 M (\$3.4 M in state funds). However, the bill also adds a provision that details when a Medicaid lien is void. This provision may eliminate any advantage in recoveries of expenditures made by the Office by filing liens on the recipient's home. The provision allows a person or corporation with an interest in the property to force the state to foreclose on the lien, or lose the lien. This action may occur at any time although the state is limited to foreclosure proceedings only if the property is sold or on the death of the Medicaid recipient. The fiscal impact of this provision would be dependent upon the number of recipients choosing to exercise this option and would eliminate state savings anticipated as discussed above.

[SEC. 81] Attorneys' Fees for Lien Recovery: This bill also reduces the percentage of subrogation lien recoveries that is required to be paid for attorneys' fees. FSSA reports that this change applies to the fees paid for personal injury lawsuits and settlements. It does not apply to estate recovery or liens against real property. The fiscal impact of this provision is unknown.

[SEC. 82] Disease Management - Stroke Prevention and Treatment: The bill allows OMPP and the Department of Health to collaborate with the American Heart Association to reduce the cost of stroke treatment and improve the outcome for stroke patients in the state. The collaboration may include the following: (1) develop and implement a comprehensive statewide public education program on stroke prevention targeted to high risk populations and geographic areas with a high stroke incidence rate; (2) recommend and disseminate guidelines on the treatment of stroke patients including emergency stroke care; (3) ensure that public providers are informed regarding the most effective strategies for stroke prevention; and (4) the dissemination of information concerning public and private grant opportunities for providers of emergency medical services and hospitals for the purpose of improving care to stroke patients. This provision is permissive language; there are no requirements on the Office or the Department that obligate fiscal resources above the appropriated level.

[SEC. 83] Medicaid Intergovernmental Transfer: This bill provides a methodology for OMPP to make additional payments for ambulance transportation services if intergovernmental transfer funds are made available to do so and if the U.S. Department of Health and Human Services approves the required State Medicaid Plan amendment. The amount of the required intergovernmental transfers and the related additional payments to Medicaid ambulance transportation service providers has not been estimated at this time.

[SEC. 93] Medicaid Services for Children: This bill allows FSSA and the Budget Agency to seek federal approval to expand the nature of services, including care coordination that may be reimbursed for Medicaid-eligible children who receive special education services. These services are currently provided at 100% cost by local school corporations.

[SEC. 95] Indiana Veterans' Home as a Medicaid Provider: The bill allows the State Department of Health to develop a plan and certify the Indiana Veteran's Home as a Medicaid provider. Subject to approval by the State Budget Agency, any revenue accruing to the Veterans' Home from the receipt of Medicaid reimbursement may be used to augment appropriations made to Medicaid long-term care. The Veterans' Home is appropriated \$12.5 M and \$12.7 M in state General Funds for FY 2004 and FY 2005, respectively. Any federal reimbursement received would offset state General Fund expenditures. There may also be some reduction in federal Veterans Administration payments received as a result of participation in the Medicaid program. The net amount of General Fund savings that may result from an implementation of this provision would be dependent upon the number of residents at the Veterans' Home who would qualify for Medicaid.

It is estimated that about one-third of the residents, about 120 individuals, may qualify for Medicaid eligibility. The process of certifying the facility for Medicaid would require time for certification, establishment of a billing function, establishment of a Medicaid rate, and residents would need to be assessed for Medicaid level of care and financial eligibility. The Iowa Veterans' Home reported in 2001 that this process took several months. Additionally, the Iowa Veterans' Home had to promulgate a rule revision specifying that residents were required to apply for all available assistance including assistance available under Title 18 and Title 19 (Medicare and Medicaid).

[SEC. 96] Muscatatuck State Developmental Center: This bill changes the criteria for closing the Muscatatuck State Developmental Center (MSDC). Under past requirements MSDC was required to remain

open until all residents received adequate placements. The placements must fully meet the capabilities and needs of the residents, must be no further from the residents families, and must be acceptable to the resident or the resident's representative. If a placement is not acceptable to the resident, the center may not be closed. This provision removes the requirement that a placement must be acceptable to the resident or the resident's representative. This provision would enable the FSSA to begin the transition process for these individuals and reduce MSDC operating expenses.

As of April 1, 2003, there were 169 residents remaining at MSDC. Of these, 138 have not begun the transition process to a community placement for lack of a signed consent form. The criteria change may result in more individuals moving to community placements in a shorter period of time.

The bill appropriates \$172.7 M in operating funds for MSDC and Fort Wayne State Developmental Center (FWSDC). An additional \$2.25 M is appropriated for preventative maintenance, repair and rehabilitation work at MSDC. For the FY 2002-FY 2003 biennium, the appropriation for MSDC and FWSDC was \$220.6 M with an additional \$1.25 M in preventative maintenance for MSDC.

[SEC. 97] Teachers' Retirement Fund: The bill transfers \$190 M each year of the biennium from the Pension Stabilization Fund (PSF) to the Teachers' Retirement Fund to help pay Pre-1996 TRF pension liabilities. The bill also appropriates from the state General Fund \$266.3 M in FY 2004 and \$310.3 M in FY 2005 for retirement benefits resulting in a total amount appropriated for retirement benefits of \$456.3 M in FY 2004 and \$500.3 M in FY 2005. The bill also changes the reference of the state fiscal year in which the Pension Stabilization Fund may be spent to reflect the fact that the money can be spent beginning in state FY 2006. In FY 2006, the prior year's state General Fund payments for the Pre-1996 Account shall be treated as including the amount used under this section in the prior state fiscal year to pay Pre-1996 TRF pension liabilities.

[SEC. 98] Help America Vote Act (HAVA): The bill cancels the appropriations made under P.L. 291-2001 for Local Election Equipment Matching Grants and Local Election and Voter Registration Equipment, which were a combined \$9 M. The bill appropriates to the Voter Registration and Procedures Account of the state General Fund an amount sufficient to meet the state match requirements to receive federal funds under HAVA for voting system replacement. An amount sufficient to comply with the appropriation would be transferred to the General Fund from the balance, as of June 30, 2003, of unclaimed prize money of the Indiana State Lottery.

Unclaimed Lottery Prizes: Under current law, all unclaimed prize money must be added to the pool from which future prizes are to be awarded or used for special prize promotions. The amount that goes into the unclaimed prize fund varies from \$10.0 M to \$12.0 M per year. However, the amount of unclaimed prize money at any given time in the fund varies and can't be estimated. Generally, unclaimed prize money comes from online prizes like Hoosier Lotto that are unclaimed for 180 days and scratch-off game prizes unclaimed for 60 days. Forecasts of future prize pay-outs of games assume that prizes will be covered with sales revenue and the money from unclaimed prizes. Thus, transfer of the unclaimed prize money could make future prize pay-outs at projected levels problematic.

Five Percent Match Estimate: In order to receive Federal funds under 42 U.S.C. 15403 (Title II Subtitle D Section 253 of HAVA), the state must appropriate a 5% match of the total amount spent for activities required under HAVA. The estimated 5% match would be approximately \$1.6 M in FY 2004, \$1.1 M in FY 2005, and \$680,000 in FY 2006.

[SEC. 99-112] *Bonding Authority:* The bill authorizes universities to issue the following bonds.

| Institution | Project | Authority |
|----------------------------|---|----------------------|
| I U Bloomington Campus | Multidisciplinary Science Building Phase II | \$31,872,000 |
| I U South Bend Campus | Land Acquisition | \$2,000,000 |
| I U P U I - Indianapolis | Research Institute Building III | \$33,333,333 |
| I U P U I - Indianapolis | Information Sciences Building | 15,000,000 |
| I U P U I - Indianapolis | Campus Center (not eligible for fee replacement) | 40,000,000 |
| I U P U I - Fort Wayne | Medical Building | 14,000,000 |
| I U P U I - Fort Wayne | Music Building | 19,000,000 |
| P U- West Lafayette Campus | Millennium Engineering Building | 36,000,000 |
| P U- West Lafayette Campus | Biomedical Engineering Building | 13,000,000 |
| P U - Calumet Campus | Parking Garage No. 1 (not eligible for fee replacement) | 11,500,000 |
| I S U | University Hall Renovation and Business School A&E | 2,240,000 |
| B S U | Communication Media Building | 21,000,000 |
| U S I | Renovation-University Center (ineligible for fee replacement) | 9,750,000 |
| U S I | Library | 29,084,830 |
| U S I | Parking Garage (not eligible for fee replacement) | 3,000,000 |
| V U - Jasper Campus | Jasper Center New Academic Building | 4,320,000 |
| Ivy Tech | Richmond Building Addition Phase II | 8,780,000 |
| Ivy Tech | Indianapolis/Lawrence Roosevelt Building | 10,000,000 |
| Ivy Tech | Evansville Phase II | 18,158,000 |
| Ivy Tech | Valparaiso New Campus, Phase I | 15,843,000 |
| Ivy Tech | Portage A&E | 275,000 |
| Ivy Tech | Marion A&E | 250,000 |
| Ivy Tech | Madison A&E | 826,000 |
| Total | | \$339,232,163 |

The annual fee replacement payments on the eligible bonds over 20 years at an interest rate of 5% would be about \$22.1 M when all the bonds are issued.

The bill also allows the State Office Building Commission to issue bonds for a regional health center and state laboratory facilities. The laboratory facilities would be used by the State Police, Department of Health,

and Department of Toxicology of the Indiana University School of Medicine.

[SEC. 113-115] Attorney General's Office: It is presumed that the Unclaimed Property Division of the Office of the Attorney General could absorb any costs associated with changes to the Unclaimed Property Law regarding demutualized insurance companies.

[SEC. 116] Fund Transfers: The proposal requires the Budget Agency to transfer the following amounts from the specified funds to the state General Fund in the years listed.

| Fund | FY 2004 | FY 2005 | Total |
|-------------------------------|---------------------|--------------------|---------------------|
| Public Deposit Insurance Fund | \$50,000,000 | | \$50,000,000 |
| Industrial Industries Fund | \$2,000,000 | \$2,400,000 | \$4,400,000 |
| Administrative Services Fund | | \$2,500,000 | \$2,500,000 |
| Total | \$52,000,000 | \$4,900,000 | \$56,900,000 |

The transfer required from the Public Deposit Insurance Fund is an interest-free loan to the state General Fund. If, prior to January 1, 2013, the Governor, on the advice of the Budget Agency, makes a determination that the state General Fund has a balance sufficient to repay the loan, the Budget Agency shall establish a repayment plan under which the loan is repaid either in one installment or in a number of installments determined by the Budget Agency. Money sufficient to make the installments under a repayment plan is appropriated from the state General Fund. If the Governor, however, has not made such a determination to repay the loan, the Budget Agency shall include a request for funds to repay the loan in the Budget Agency budget request submitted to the 2013 session of the General Assembly.

[SEC. 117] Tobacco Master Settlement Agreement Fund Provisions: This bill eliminates provisions regarding the maximum amount of annual revenue received under the Tobacco Master Settlement Agreement that is available for expenditure, transfer, or distribution. The bill also allows the expenditure of the money retained in the Fund that was previously designated as not available for expenditure, transfer, or distribution.

The bill makes the following transactions from the Indiana Tobacco Master Settlement Agreement Fund.

| Tobacco Master Settlement Agreement Fund | FY 2004 | FY2005 |
|---|----------------|---------------|
| Beginning Balance, July 1, | \$246.0 M | \$204.0 M |
| Plus: Estimated Revenue | \$127.6 M | \$129.3 M |
| Less: Appropriations | \$169.6 M | \$172.0 M |
| Ending Balance, June 30, | \$204.0 M | \$161.3 M |

The appropriations from the Tobacco Master Settlement Agreement Fund are listed in the following table.

| Appropriation Line Items | FY 2004 | FY 2005 |
|--|----------------------|----------------------|
| Prescription Drug Program | \$ 8,000,000 | \$ 8,000,000 |
| IN Health Care Advisory Board (CHIP) | 23,800,000 | 26,200,000 |
| Home Health Provider Salaries | 3,000,000 | 3,000,000 |
| DD Client Services | 21,300,000 | 21,300,000 |
| State Department of Health | 25,748,887 | 25,748,887 |
| Cancer Registry | 237,224 | 237,224 |
| Minority Health Initiative | 2,092,500 | 2,092,500 |
| Minority Epidemiology | 500,000 | 500,000 |
| Sickle Cell | 232,500 | 232,500 |
| Commission on Hispanic/Latino Affairs | 125,000 | 125,000 |
| Aid to Tuberculosis Hospitals | 107,397 | 107,397 |
| AIDS Education | 674,802 | 674,802 |
| HIV/AIDS Services | 2,325,004 | 2,325,004 |
| Test for Drug Afflicted Babies | 62,496 | 62,496 |
| State Chronic Diseases | 536,516 | 536,516 |
| Women Infants & Children Supplement | 176,700 | 176,700 |
| Maternal & Child Health Supplement | 176,700 | 176,700 |
| Cancer Education & Dx-Breast Cancer | 93,000 | 93,000 |
| Cancer Education & Dx-Prostate Cancer | 93,000 | 93,000 |
| Community Health Centers | 15,000,000 | 15,000,000 |
| Local Health Maintenance | 3,860,000 | 3,860,000 |
| Local Health Department Account | 3,000,000 | 3,000,000 |
| Tobacco Prevention Board & Program | 10,800,000 | 10,800,000 |
| Technology Development Grant Fund | 4,500,000 | 4,500,000 |
| Rural Development Administration Fund | 2,400,000 | 2,400,000 |
| Rural Development Council Fund | 1,200,000 | 1,200,000 |
| Value Added Research Fund | 600,000 | 600,000 |
| 21st Century Fund | 37,500,000 | 37,500,000 |
| Regional Health Care Construction Acct | 1,450,000 | 1,450,000 |
| Total Appropriated | \$169,591,726 | \$171,991,726 |

[SEC. 122-127] *Department of Correction Provisions:* This bill adds faith-based programs to the type of programs that community corrections programs might operate. It also requires each community corrections advisory board to develop a forensic diversion program plan to ensure that an adult with a mental illness or an addictive disorder who has been convicted of a crime receives adequate community-based treatment or other services instead of incarceration. The bill also allows a sentencing court to suspend a portion of a person's sentence if the person can be placed in a forensic diversion program under IC 11-12-3.5.

The bill also requires the Department of Correction to report each quarter to the State Budget Committee concerning patterns in county sentencing. The report must include information about the following: (1) population; (2) location by facility; (3) percentage of facility usage; (4) type of inmate; (5) type of incarceration; (6) mental health diversion; and (7) community corrections and community transition.

Forensic Diversion Program: These provisions could reduce the number of beds needed if these forensic diversion programs are developed and courts choose to suspend more than the minimum sentences of offenders. The number of offenders who are mentally ill or who have addictive disorders is not known. However, the percentage of offenders who are in these categories would likely be between 12 and 17 percent of the DOC population based on past studies.

The following table shows the minimum sentence that an offender would have to serve for different offenses under current law:

| <u>Felony Class</u> | <u>Minimum Sentence</u> |
|---------------------|-------------------------|
| Murder | 45 years |
| A Felony | 20 years |
| B Felony | 6 years |
| C Felony | 2 years |
| D Felony | six months |

State expenditures could be reduced if offenders are diverted due to the creation of these programs. Mentally ill offenders in community-based care might also be eligible for Medicaid assistance for anti-psychotic medications. This will depend on the types of programs available at the county level. (See also *Explanation of Local Expenditures*)

[SEC. 135-175] *School Funding and Education Provisions:* The bill has a deficiency appropriation for FY 2003 of \$19.4 M and increases the CY 2003 tuition support cap to \$3,580 M.

The tuition support formula provides for a 2.1% increase in funding to local schools for CY 2004 and 2.0% for CY 2005. The following table shows the approximate distribution under the formula.

| | CY 2003 | CY 2004 | % Inc. | CY 2005 | % Inc. |
|--------------------------|----------------|----------------|---------------|----------------|---------------|
| State | 3,580,000,000 | 3,676,000,000 | 2.7% | 3,721,000,000 | 1.2% |
| Property Taxes | 1,775,600,000 | 1,852,500,000 | 4.3% | 1,920,900,000 | 3.7% |
| Transfer | 57,500,000 | | | | |
| Prior Year Excise | 215,700,000 | 216,700,000 | 0.5% | 217,600,000 | 0.4% |
| Total | 5,628,800,000 | 5,745,200,000 | 2.1% | 5,859,500,000 | 2.0% |

The formula changes the complexity index calculations. Schools are provided additional funding depending on the percentage of students who:

- received free lunch in 2003,
- qualified for the limited English proficiency program in 2003,
- were below the poverty level in the 2000 census,
- were from a single parent family in the 2000 census, or
- had a parent with less than a high school education in the 2000 census.

To transition schools to the foundation of \$4,350 in CY 2004 and \$4,364 in CY 2005 times the complexity index, the increase in the foundation funding per student is limited to a 2% increase or decrease in dollars per student for CY 2004 and CY 2005. The formula contains a 1% minimum guarantee on regular program funding.

The grant variables for the school formula categorical calculations (special education, vocational education, primetime, and honors) remain the same for CY 2004 and CY 2005 as were established for CY 2003.

The bill also provides that funding for university laboratory schools will be funded like charter schools in the school formula.

Regular Transportation Funding: The bill reduces the state funding for regular transportation by 50% for FY 2004 and 100% for FY 2005. The appropriation for FY 2004 is \$11,997,909.

Special and Vocational Transportation Funding: The bill reduces the state funding for regular transportation by 50% for FY 2004 and 100% for FY 2005. The appropriation for FY 2004 is \$4,450,050.

ADA Flat Grant Funding: The bill reduces the state funding for regular transportation by 50% for FY 2004 and 100% for FY 2005. The appropriation for FY 2004 is \$17,927,299.

Madison Consolidated Schools: Madison Consolidated School Corporation would receive an adjustment to their previous year's revenue in the school formula for CY 2004. The adjustment equals the difference in the reduction in revenue from the dual enrollment adjustment and the additional revenue the school received from counting the students as full-time students instead of on a pro rata basis for CY 2000.

Dual Enrollment Penalty: CY 2004 was the last year of the phaseout of the reduction in a school's previous year's revenue for the counting of private school students in a school's ADM as full-time instead of on an FTE basis. The reduction is delayed to CY 2005, and the remaining reduction is spread over 3 years.

Charter School Expenditure Limits: The bill limits the state expenditures for charter schools to \$20,250,000 for CY 2004 and \$20,250,000 for CY 2005.

[SEC. 176, 245] 21st Century Research and Technology Fund: The 21st Century Research and Technology Fund exists under current statute to provide grants or loans to support proposals for economic development in areas relating to research and development and research and technology. The Fund is administered by the State Budget Agency, with the grant/loan program being administered by the 21st Century Research and Technology Fund Board. The bill repeals the \$15.0 M appropriation to the Fund in FY 2004 from the state General Fund under current statute (P.L. 292-2002(ss)). The bill also appropriates \$37.5 M annually in each of FY 2004 and FY 2005 to the Fund from the Tobacco Master Settlement Agreement Fund.

[SEC. 177-178] Rural Development Administration Advisory Board: The bill creates the Rural Development Administration Advisory Board to make recommendations to the Indiana Rural Development Council concerning the expenditure of money from the Rural Development Administration Fund. The Board consists

of 16 members. Non-voting members include the Executive Director of the Indiana Rural Development Council, 2 members of the Senate appointed by the President Pro Tempore of the Senate, and 2 members of the House of Representatives appointed by the Speaker of the House of Representatives. The Board includes 11 voting members appointed by the Governor: a representative of the Commissioner of Agriculture, a representative of the Department of Workforce Development, 2 persons with knowledge and experience in state regional economic needs, a representative of a local rural economic development organization, a representative of a rural development council, a representative of rural education, a representative of the League of Regional Conservation and Development Districts, and a person enrolled in rural secondary education.

The bill appropriates \$2.4 M annually in FY 2004 and FY 2005 from the Tobacco Master Settlement Agreement Fund to the Rural Development Administration Fund. The bill also appropriates \$1.2 M annually in FY 2004 and FY 2005 from the Tobacco Master Settlement Agreement Fund to the Rural Development Council Fund. The funds are to be administered by the Indiana Rural Development Council. Money in the funds at the end of a fiscal year does not revert to the General Fund.

[SEC. 179] Technology Parks/Technology Development Grant Fund: The bill appropriates \$4.5 M annually in FY 2004 and FY 2005 from the Tobacco Master Settlement Agreement Fund to the Technology Development Grant Fund. The Fund is established to provide grants to redevelopment commissions that have established technology parks. The bill requires the Indiana Department of Commerce to administer the Fund. The bill limits total grants to a particular technology park to \$2 M for leasing, construction, and purchase of capital assets and \$2 M for operating expenditures. However, no more than \$500,000 may be distributed to a particular technology park in a fiscal year. The bill removes the requirement that a certified technology park application demonstrates a firm commitment from at least one business engaged in high technology activity creating a significant number of jobs.

[SEC. 190] Fellowship Program: The specific expenditures will depend upon the number and the type of grant(s) received and the support each grant provides. The Ewing Marion Kauffman Foundation of Kansas City, Missouri, has a new funding program launched to promote research into new business formation and entrepreneurial growth called The Emerging Scholars Grant program. The program is designed to accelerate research into entrepreneurial activity. The five Ph.D. student recipients of the Kauffman Emerging Scholars Initiative will each receive a maximum of \$15,000 to support academic research into entrepreneurship.

[SEC. 192-193,197-198] Hoosier Business Investment Tax Credit: The tax credit established by the bill would create additional administrative demands on the Indiana Department of Commerce (IDOC). Under the bill, the Economic Development for a Growing Economy (EDGE) Board is responsible for administering the investment tax credit, and the IDOC is required to provide administrative support to the EDGE Board in administering the tax credit. Specifically, the bill requires the Director of the IDOC to: (1) prescribe a form to be used by a taxpayer to apply for the investment tax credit; (2) verify that the taxpayer is complying with certain performance conditions in the tax credit agreement between the taxpayer and the EDGE Board; (3) provide taxpayers the opportunity to explain any noncompliance with the performance conditions and notify the Department of State Revenue when an assessment for noncompliance is necessary; and (4) annually submit a report on the investment tax credit program to the EDGE Board. The bill also requires the EDGE Board to provide for a biennial evaluation of the investment tax credit program to be submitted to the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The Board is required to give first priority to using the Indiana Economic Development Council for the evaluation.

The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision

of tax forms, instructions, and computer programs to incorporate this tax credit. These expenses presumably could be absorbed given the DOR's existing budget and resources. Under the bill, the DOR also is responsible for imposing and collecting assessments against taxpayers who have been awarded investment tax credits but do not comply with the performance conditions in the tax credit agreement with the EDGE Board.

The tax credit also would create additional responsibilities for the State Budget Agency (SBA). The bill requires the SBA to certify that investment tax credits awarded by the EDGE Board under this bill will provide an overall positive fiscal impact to the state. Currently, the SBA performs this function with respect to Economic Development for a Growing Economy Credits awarded annually by the EDGE Board. As a result, the administrative impact of this provision on the SBA is not expected to be significant.

[SEC. 194-196,232-243] Community Revitalization Enhancement Districts (CREDs): Under current law, the state Budget Committee must review and make a recommendation to the Budget Agency after they are notified of a designation of a community revitalization enhancement district. The Budget Agency must approve the resolution designating the district. The Department of State Revenue (DOR) must calculate the base income tax amount and the base gross retail amount for the district. The State Treasurer must establish an incremental tax financing fund for the county that establishes the district. Money in the fund does not revert to the state General Fund at the end of the fiscal year. The DOR and the State Budget Agency must annually estimate and certify the amount of income tax and sales tax which will be collected from the district.

[SEC. 201-231] Port Commission: The bill expands the Port Commission's authority beyond financing and building port projects on Lake Michigan, the Ohio River, and the Wabash River. In addition to its current powers, the bill authorizes the Port Commission to issue revenue bonds under its current law issuing authority to finance projects involving (1) to (3) below.

(1) Ports on other water bodies in Indiana.

(2) Nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(3) Any other project located in Indiana other than at a port, that the Commission finds will enhance, foster, aid, provide, or promote: (a) economic development; (b) public-private partnerships; and (c) other industrial, commercial, business, transportation purposes.

Under current statute, Port Commission revenue bonds have a maximum maturity of 50 years. Also under current statute, Port Commission revenue bonds do not constitute a debt, or a pledge of the faith and credit, of the state or political subdivisions of the state. In addition, current statute requires that revenue bonds of the Port Commission be secured with revenues derived by the Commission from fees, tolls, rentals, and other charges for: (1) the use of Commission ports, projects, terminal facilities, and lands; or (2) services rendered by the Commission. Current law authorizes the Port Commission to fix its fees, tolls, rentals, and other charges to provide revenue sufficient to pay its administrative, operation, and maintenance costs and the principal and interest on revenue bond issuances. As a result of the bill, the Port Commission would incur additional administrative expenses relating to the expansion of project financing authority. Additional staffing that may be necessitated by this expansion is unknown at this time. The Port Commission currently has 11 employees staffing its Indianapolis office, with 23 port employees located in Mt. Vernon, Jeffersonville, and Portage.

[SEC. 244] Government Efficiency Commission: The bill creates a 22-member commission consisting of one cochairperson appointed by the President Pro Tempore of the Senate, one cochairperson appointed by the Speaker of the House, 10 members appointed by the President Pro Tempore of the Senate, and 10 members appointed by the Speaker of the House. The members can not be an elected or appointed state or local official. The Commission shall have four subcommittees: K-12 education, higher education, Medicaid and human services, and general government. The bill authorizes the Commission to accept donations to carry out its purposes.

The members are entitled to traveling expenses and other expenses incurred in connection with the members' duties. Assuming an average of two meetings per month, the FY 2004 impact is estimated to be \$18,250 and the FY 2005 impact is estimated to be \$9,125. The expenses of the Commission would be paid from the Legislative Services Agency budget. The staff advisers for the Commission include the State Budget Director, the Commissioner of the Higher Education Commission, the Indiana State Board of Education Administrator, and the Executive Director of the Legislative Services Agency.

[SEC. 259] Jay County School Corporation: The bill extends the period of time for the repayment of a tuition support advance to Jay County School Corporation from 10 years to 20 years. During the ten-year period the school was to repay \$13,882 annually. This will increase the state General Fund expenditures for tuition support by approximately \$6,000 annually from FY 2004 through FY 2021.

[SEC. 260-264] Economic Development Corporation: The bill establishes the Economic Development Corporation and Board and transfers the responsibilities of the Indiana Department of Commerce (IDOC) relating to economic development in Indiana to the Corporation on July 1, 2005. The bill provides that the Economic Development Corporation is a body politic and corporate, an independent instrumentality and not a state agency. The Corporation is authorized to employ bond counsel, other legal counsel, technical experts, and other officers, agents and employees necessary for its operations; and to determine qualifications, duties, compensation, and terms of service of its employees. The bill stipulates that employees of the Corporation are not employees of the state. The bill also permits the Corporation to incur debt, and specifies that debt incurred by the Corporation does not represent or constitute debt of the State of Indiana.

The Corporation Board is composed of 23 members, none of whom can be members of the General Assembly. The Lt. Governor is a member of the Board. The Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, House Minority Leader, and Senate Minority Leader each appoint three members of the Board. The presidents of Indiana University, Purdue University, Indiana State University, Ball State University, Ivy Tech State College, Vincennes University, and the University of Southern Indiana each appoint one member of the Board. Members appointed by the Governor, President Pro Tempore of the Senate, and Senate Minority Leader serve for terms of four years; and members appointed by the Speaker of the House of Representatives, the House Minority Leader, and the college and university presidents serve for terms of two years. Board members are entitled to a salary per diem equal to the per diem for members of the General Assembly for attending meetings. In addition, Board members are to be reimbursed for actual and necessary expenses on the same basis as state employees.

The bill provides that the current duties of the Indiana Department of Commerce (IDOC) relating to economic development are transferred to the Economic Development Corporation on July 1, 2005. The bill also makes the entities listed below subsidiaries or agencies of the Corporation on July 1, 2005. Under the bill, the Corporation is responsible for overseeing the operations of these entities:

- Indiana Small Business Development Corporation;

- Indiana Economic Development Council;
- Indiana Development Finance Authority;
- Indiana 21st Century Research and Technology Fund;
- Indiana Venture Fund.

The bill transfers the current duties of the IDOC relating to energy policy to the Office of Energy Policy on July 1, 2005. In addition, the bill establishes the Department of Tourism and Community Development on July 1, 2005, and transfers the current IDOC duties relating to tourism and community development to this agency.

The April 3, 2003, state staffing table indicates that the IDOC currently has about 68 full-time positions, 19 of which are vacant, within the functional areas of economic development, community development and tourism, and energy policy. The economic development area (encompassing development finance, business development, international trade areas, entrepreneur, minority, and small business and rural development) has 38 full-time positions, 16 of which are vacant, with a current annual salary cost of about \$830,000. The tourism, community development, and Mainstreet programs have 21 full-time positions, 2 of which are vacant, with a current annual salary cost of about \$697,000. The energy policy area has 9 full-time positions, one vacancy, with a current annual salary cost of about \$296,000. In addition to employees in these functional areas, the IDOC has positions in regional offices and in executive office and central services to the above-described functional areas. The regional offices contain 39 full-time positions and 9 intermittent positions. Two full-time positions are vacant, while all intermittent positions are vacant. The current salary cost of the regional offices is \$1.72 M. The executive office and central services areas contain 56 full-time positions, 13 of which are vacant. The current annual salary cost of these employees is approximately \$1.66 M.

[SEC. 270] Education Roundtable Fiscal Impact Statements: The bill requires the Department of Education to prepare a fiscal impact statement for recommendations made by the Education Roundtable that would have an estimated fiscal impact of at least \$500,000. The Legislative Services Agency is to review and prepare a fiscal analysis based on the Department of Education's estimate. This will involve additional workload on the two agencies.

[SEC. 271-275] Income/Sales Tax Allocation in Distressed Counties: The bill establishes administrative responsibilities for several agencies relating to tax allocation projects in distressed counties. The additional administrative responsibilities established under the bill presumably could be absorbed by these agencies given their existing budgets and resources. The impact should be limited as only five to seven counties may be qualified for tax allocation projects and the provisions sunset July 1, 2005. The bill requires the Indiana Development Finance Authority (IDFA) to review and designate industrial development tax allocation areas in distressed counties. The State Budget Agency also must approve of the tax allocation areas. Under current statute, the Indiana Department of Commerce must provide administrative assistance to the IDFA. Currently, the IDFA has a staff of approximately eight.

The bill gives the Department of State Revenue (DOR) responsibility for determining base (sales and income tax) allocation amounts for purposes of tax allocations in industrial development project areas. These expenses presumably could be absorbed given the DOR's existing budget and resources. The Auditor of State is required to administer the industrial development project area funds established in connection with tax allocation areas designated by the IDFA. These expenses presumably could be absorbed given the Auditor's existing budget and resources. The bill also requires the Department of Workforce Development (DWD) to annually provide to the IDFA a list of the counties that meet distress criteria for purposes of designating tax

allocation projects.

Explanation of State Revenues: *[SEC. 42] Transfer Fee for Riverboat Owner's License:* The bill imposes a transfer fee of \$2.0 M on a licensed riverboat owner who purchases or otherwise acquires a controlling interest in a second owner's license. The bill requires the Indiana Gaming Commission to collect and deposit the fee in the state General Fund. The potential fiscal impact of this fee is indeterminable, as potential ownership transactions are unpredictable.

[SEC. 43 & 44] Authorization for 24-Hour Gaming on Riverboats: The bill authorizes a licensed riverboat owner who implements flexible scheduling to conduct gambling operations for up to 24 hours per day. Under current policy of the Indiana Gaming Commission, the riverboat casinos must close for three hours daily. The additional gaming hours could potentially increase revenue from the Riverboat Admission Tax and Riverboat Wagering Tax. However, the precise fiscal impact is indeterminable and contingent upon market factors and prevalence of 24-hour operations by the riverboats.

[SEC. 45-48] Wagering Tax Collection & Distribution Procedures:

Clarification of Wagering Tax Imposition: The bill clarifies the imposition of the (graduated) Riverboat Wagering Tax applicable to riverboats that implement flexible scheduling for only a part of the annual tax period beginning with the July 1, 2002, to June 30, 2003, tax period. The bill amends current statute to stipulate that whenever a riverboat implements flexible scheduling during a July 1st to June 30th tax period, the Wagering Tax rate imposed on adjusted gross (wagering) receipts (AGR) received while the riverboat implements flexible scheduling is to be computed as if the riverboat had engaged in flexible scheduling during that entire July 1st to June 30th tax period. The bill also stipulates that if a riverboat ceases to operate under flexible scheduling before the end of a July 1st to June 30th tax period, it must continue to pay the graduated Wagering Tax until the end of that annual tax period.

Acceleration of Wagering Tax Distributions: The bill accelerates by approximately one month the distribution schedule for Riverboat Wagering Tax distributions to the Property Tax Replacement Fund (PTRF) beginning in FY 2004. This is estimated to increase total Wagering Tax revenue to the PTRF in FY 2004 by approximately \$66.2 M and in FY 2005 by approximately \$5.8 M.

The bill requires that the transfer of Riverboat Wagering Tax revenue from the State Gaming Fund to the PTRF be made no later than the last business day of the month in which the tax revenue is remitted by the riverboats. However, revenue received on the last business day of the month may be transferred to the PTRF in the next month. The acceleration of the distribution schedule begins in FY 2004. Generally, Wagering Tax revenue is deposited in the PTRF in the month following the month in which the revenue is remitted by the riverboats. Thus, June 2004 Wagering Tax collections that would otherwise be distributed to the PTRF in July 2004 (FY 2005) would, under the bill, be distributed to the PTRF in June 2004 (FY 2004). The estimated impact of this change is based on the Revenue Technical Committee Forecast (April 10, 2002) for the Riverboat Wagering Tax.

Recapture of 2002-2003 Wagering Tax Underpayments: The bill eliminates the lag in computing cumulative adjusted gross (wagering) receipts for purposes of imposing the graduated Riverboat Wagering Tax on riverboats implementing flexible scheduling during the July 1, 2002, to June 30, 2003, tax period. This provision is estimated to increase Wagering Tax collections attributable to this tax period by approximately \$33.0 M. The bill requires the riverboats to pay these uncollected taxes in equal installments on July 1, 2003, and July 1, 2004. This would increase Wagering Tax revenue to the Property Tax Replacement Fund (PTRF)

by approximately \$16.5 M in FY 2004 and in FY 2005.

Under an administrative decision by the Indiana Gaming Commission, Wagering Tax rates during the July 1, 2002, to June 30, 2003, tax period have not been computed for AGR received after implementation of flexible scheduling based on cumulative AGR received since July 1, 2002. The starting point for the computation of cumulative AGR during the tax period was set by the Commission at August 1, 2002, for seven riverboats that implemented flexible scheduling on that date; and August 5, 2002, for three riverboats that implemented flexible scheduling on that date. A noncode provision of the bill retroactive to July 1, 2002, waives all penalties and interest due from a riverboat that underpaid the amount of Wagering Tax after June 30, 2002, and before May 1, 2003, because the tax rates on AGR received by the riverboat after implementation of flexible scheduling were not based on the cumulative total AGR received by the riverboat from July 1, 2002, provided the riverboat pays the unpaid balance in two equal installments on July 1, 2003, and July 1, 2004.

[SEC. 49-50] Sales Tax on Complimentary Lodging: The bill provides that the state Sales Tax applies to rooms or lodgings furnished to a person on a complimentary basis if the rooms or lodgings are: (1) furnished for less than 30 days duration; and (2) located in a hotel, motel, inn, tourist camp, tourist cabin, or other place where rooms or lodgings are regularly furnished for consideration. The Sales Tax liability on complimentary rooms is equal to 6% of the gross retail income received from renting a comparable room or lodging on the date the complimentary room or lodging is provided. The bill requires the retail merchant to report to the Department of State Revenue with the Sales Tax return both rooms or lodgings actually rented and provided on a complimentary basis and Sales Tax remitted on both types of transactions.

This provision is estimated to generate \$1.0 to \$1.3 M annually from complimentary rooms provided at riverboat casino hotels in Indiana. The impact from imposing the Sales Tax on complimentary rooms or lodging provided at other lodging establishments in the state is indeterminable. Currently, eight of the riverboat casinos operate hotels. The estimate assumes an average of 30% to 40% of rooms at these hotels are provided on a complimentary basis. It also assumes an average room rate (based on lodging industry statistics) of \$80.

[SEC. 51-63] State Motor Vehicle Technology Fund: The bill makes permanent the \$0.50 per transaction fee charged by the Bureau of Motor Vehicles Commission for most transactions. This fee was to expire in 2003. The fee generates approximately \$6 M per year for the State Motor Vehicle Technology Fund.

[SEC. 70] Nursing Facility Quality Assessment Fee: The bill requires the Office to submit a state plan amendment and requests for waivers necessary to implement a nursing facility quality assessment to the federal Centers for Medicaid and Medicare Services (CMS). A state is allowed to assess a health care related tax so long as the assessment is broad-based and uniformly imposed throughout a jurisdiction or provider group. The fee is to be based on a nursing facility's total annual revenue less any Medicare revenue received, and the bill specifies that the quality assessment may not be passed through to the facility's residents. Quality assessments are to be collected from nursing facilities with a Medicaid utilization rate of at least 25% and at least \$700,000 in annual Medicaid revenue. The bill further specifies that the money collected from the quality assessment may be used only to pay the state's share of Medicaid program costs. Eighty percent of the fee is to be used for nursing facility reimbursement, and the expenditure of the remaining 20% may be determined by OMPP. The Quality Assessment may only be collected if federal financial participation is available to match enhanced reimbursement for nursing facilities. The total quality assessment is estimated to generate \$107 M annually: 80% of the quality assessment, or \$85.6 M, will be used for additional annual expenditures for nursing facility reimbursement; \$21.4 M is the estimated amount that will be available to

the state to match federal funds that would otherwise be subject to reductions that have not been determined at this time.

[SEC. 113-115] Abandoned Property Fund: On June 30 of 2003, 2004, and 2005, the bill requires the State Treasurer to transfer the balance of the Abandoned Property Fund, after certain deductions, to the state General Fund. The bill also requires the Treasurer of State to restore any funds transferred from the Abandoned Property Fund to the Common School Fund after June 30, 2002, back to the Abandoned Property Fund. The bill provides that the Abandoned Property Fund must retain a balance of \$500,000. The transfer to the General Fund also recognizes appropriations provided for in other sections of the Fund for the Attorney General's personnel services and other operating costs associated with the unclaimed property program. Under current law, the Treasurer of State would transfer the balance of the Fund, less deductions, to the Common School Fund. As a point of reference, in FY 2002, \$30.0 M was transferred from the Abandoned Property Fund to the Common School Fund. The balance of the Abandoned Property Fund at the close of FY 2002 was \$46.9 M. Interest accrued on property in the Abandoned Property Fund is deposited in the state General Fund.

This bill also clarifies and establishes when the proceeds due to shareholders as a result of the demutualization of a mutual insurance company are presumed abandoned and reportable to the state. Under current law, unclaimed shareholder proceeds from the restructuring of a mutual insurance firm are reportable to the state as unclaimed property five years after the restructuring event. This bill changes the law so that unclaimed shareholder proceeds may be presumed abandoned and reportable to the state five years after the insurer's last contact with the policyholder or five years after the mutual insurance company restructuring. Based on a study prepared for the Treasurer's Office, this change is expected to increase funds deposited in the Abandoned Property Fund (and potentially the state General Fund from FY 2003 to FY 2005) by approximately \$30 M to \$40 M.

[Sec. 120] Unemployment Compensation: The bill appropriates \$72.2 M of the federal Temporary Extended Unemployment Compensation Act of 2002 (Reed Act) to the Department of Workforce Development. The appropriation is for 10 fiscal years beginning July 1, 2003. The funds can be used for the following purposes.

| | | |
|------------------------------------|-----------------|--------------|
| Modernization of UI System | FY 2004-FY 2013 | \$39,000,000 |
| Jobs Proposal | FY 2004 | \$5,000,000 |
| | FY 2005 | \$5,000,000 |
| | FY 2006 | \$5,000,000 |
| | FY 2007 | \$5,000,000 |
| | FY 2008 | \$5,000,000 |
| Workforce Investment Boards | FY 2004 | \$4,000,000 |
| | FY 2005 | \$4,000,000 |
| Total | | \$72,000,000 |

Reed Act Background: The federal government is distributing about \$174.5 M to Indiana in a special Reed Act distribution. The funds are deposited in the state Unemployment Trust Fund to be used generally for regular unemployment compensation. The Act allows the state to appropriate the distribution for

administrative purposes. With the \$72.2 M for administrative purposes, about \$102.3 would be available for benefits.

[SEC. 128-134] *IDEM Drinking Water Fees:* This bill establishes the Safe Drinking Water Program to be administered by the Department of Environmental Management (IDEM). The program is funded by new annual operating fees assessed public drinking water systems. Fees collected are to be deposited in the Environmental Management Permit Operation Fund which is used to defray the costs of administering activities of the Federal Safe Drinking Water Act. The fee is phased in over a three-year period. IDEM must assess public water system annual operation fees that are due in 2004 and begin accruing January 1, 2004, not earlier than July 1, 2004, at 1/3 of the fee. Fees due in 2005 must be assessed at 2/3 of the fee. Fees thereafter are assessed at the full rate. The bill provides penalties if fees are not remitted in a timely manner. Delinquency charges must be deposited in the Environmental Management Permit Operation Fund. The new fee will generate an estimated \$2 M annually when fully phased in.

Phase-in - Annual fee at 1/3: assessed after July 1, 2004 (\$2,031,022 at 1/3 = \$670,237); Annual fee at 2/3: assessed after July 1, 2005 (\$2,031,022 at 2/3 = \$1,360,785); Full annual fee assessed not later than January 15 in 2006 and every year thereafter (\$2,031,022).

| Fees for Community Public Water Systems (PWSs) (Cities, towns, private water companies, and mobile home parks) | | | | |
|--|------------------------------|-----------------|--|--------------------------|
| Type of PWS | Proposed Fee | # of PWS | Estimated Total # of Service Connections Affected Statewide | Revenue Generated |
| For PWS with more than 400 service connections | \$.95 per service connection | 374 | 1,493,707* | \$1,419,022 |
| For PWS with 400 or fewer service connections | \$350 per system | 506 | Not Applicable | \$177,100 |
| Total | | | | \$1,596,122 |

| Fees for Non-Community Nontransient PWSs (Schools, industries, and businesses) | | | |
|--|---------------------|---------------------------|--------------------------|
| # of Persons Served | Proposed Fee | # of Affected PWSs | Revenue Generated |
| 25 – 100 | \$150 | 301 | \$45,150 |
| 101 – 250 | \$180 | 143 | \$25,740 |
| 251 – 500 | \$240 | 119 | \$28,560 |
| 501 – 1,000 | \$300 | 114 | \$34,200 |
| 1,001 – 3,300 | \$450 | 26 | \$11,700 |
| 3,301 – 5,000 | \$600 | 1 | \$600 |
| 5,001 – 10,000 | \$1,500 | 1 | \$1,500 |
| More than 10,000 | \$3,000 | 0 | \$0 |
| Total | | 705 | \$147,450 |

| Fees for Non-Community Transient PWSs (Campgrounds, churches, restaurants, highway rest areas, gasoline stations, and motels) | | | |
|---|---------------------|---------------------------|------------------------------|
| Type of System (Based on Water Source) | Proposed Fee | # of Affected PWSs | Revenue Generated |
| Groundwater | \$100 | 2,860 | \$286,000 |
| Purchased Water | \$50 | 1 | \$50 |
| Surface Water | \$200 | 7 | \$1,400 |
| Total | | | \$287,450 |

| Overall Net Revenue From Proposed Public Water System Annual Fees | |
|--|--------------------------|
| Type of PWS | Revenue Generated |
| Community Systems | \$1,596,122 |
| Non Community Nontransient Systems | \$147,450 |
| Non Community Transient Systems | \$287,450 |
| Total | \$2,031,022 |

[SEC. 185-189] *Investment Goals for PERF, TRF, and Indiana Colleges and Universities:* The bill sets goals for PERF, TRF, and the Boards of Trustees of Indiana colleges and universities regarding high-growth companies.

"Indiana high growth company" means a high growth company that:

- (1) has its headquarters in Indiana; and has (A) at least fifty percent (50%) of its employees residing in Indiana; or (B) at least seventy-five percent (75%) of its assets located in Indiana. If the Board s decide to allocate part of the fund assets to funds investing in high growth companies, the Board is strongly encouraged to establish the following:
- (2) A goal for investment in funds investing in Indiana high growth companies of at least twenty-five percent (25%) of the amount allocated to funds investing in high growth companies.
- (3) A preference for investments described in subdivision (1) that are started in or assisted by Indiana universities and colleges.
- (4) The board has five (5) years after the date the goals in subsection (c) are adopted to achieve the goal percentages.
- (5) The Board is not required to achieve the goal percentages if the Board, exercising financial and fiduciary prudence, determines that sufficient appropriate investments in privately held equity or debt assets are not available in Indiana. This expires July 1, 2013.

This proposal could affect the policy under which the public pension funds and foundations or endowments of state educational institutions operate. The decisions of the Boards of Trustees of the Public Employees' Retirement Fund (PERF), the Teachers' Retirement Fund (TRF), and the foundations or endowments of state educational institutions will need to fall within the parameters of the bill regarding alternative investments.

The funds operate under the prudent investment standard. IC 5-10.3-5-3(a) states : *The Board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The*

board shall also diversify such investments in accordance with prudent investment standards.

[SEC. 191] Research Expense Credit: This bill extends the expiration date of the Research Expense Credit to December 31, 2013. It is currently set to expire December 31, 2004. It is estimated that these changes will result in an additional revenue loss beginning in FY 2005 through FY 2014.

Over the past few years, the current Research Expense Credit has ranged from \$9.2 M in FY 1996 to \$24.2 M in FY 1999. However P.L. 192-2002(ss) increased the credit to 10% and eliminated the apportionment formula. Consequently the cost of the base credit was estimated to increase by an additional \$47.9 M in FY 2004 and \$51.5 M in FY 2005 (for a full 12 months or \$24.8 M for 6 months due to the expiration of the credit in 2004). The total annual cost of the current credit is estimated to be \$72.1 M in FY 2004 and \$75.7 M in FY 2005. If this credit were to expire December 31, 2004, the revenue base could potentially increase by approximately \$37.85 M in FY 2005 (six months liability) and \$79 M in FY 2006. However, without this credit available, taxpayers' investment in research activities could significantly change and affect their base income tax liabilities. Research Expense Tax Credits affect revenue collections deposited in the General Fund.

It is difficult to estimate the exact impact of continuing this tax credit since it is dependent on both the amount of research expenses individual taxpayers make during the year and their total tax liability. With additional incentives created for research and development activity based in the state of Indiana, the revenue loss from this credit could increase by an indeterminable amount. The credit provides \$100,000 for each \$1 M in new research expenses. Increased expenditures on research activities could also generate additional Adjusted Gross Income and Sales Tax revenue if these expenses are used to hire additional employees or purchase related equipment.

[SEC. 194-196, 232-243] Community Revitalization Tax Credit: Under the bill, taxpayers in the new community revitalization enhancement districts (CRED) would be entitled to the Community Revitalization Tax Credit which was established in P.L. 125-1998. In addition, the tax credit would be extended to pass through entities that make qualified investments in existing as well as new CREDs beginning in tax year 2003. The tax credit is available for qualified investment made for the redevelopment or rehabilitation of property located within a CRED. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Department of Commerce. As tax return data relating to this tax credit are unavailable and the potential number of new CREDs is indeterminable, the revenue loss from potential additional credits is indeterminable.

The tax credit is based on 25% of the qualified investment. The tax credit may be used to reduce the taxpayer's tax liability under the following taxes: Adjusted Gross Income, County Adjusted Gross Income, County Option Income, County Economic Development Income, Insurance Premiums, and Financial Institutions. The taxpayer may carry any excess credit over to the immediately following years, but is not entitled to a carryback or refund of any unused credit. A taxpayer may assign any part of the credit to a lessee of the property redeveloped or rehabilitated but must be in writing and reported to the Department of State Revenue. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district.

This tax credit is similar to the Industrial Recovery Site/Dinosaur Credit (IRTC) that has been in effect since 1987 under P.L. 379-1987(ss). Since its inception, 29 tax credits have been awarded with a maximum value of about \$23.0 M. The total investment in these projects equaled about \$104.9 M. Since 2000, only three tax credits have been awarded with a maximum value of about \$1.9 M and project investment totaling about

\$10.1 M.

CRED Income and Sales Tax Increment Allocations: This bill will allow the additional cities that designate a CRED to capture up to \$750,000 of the incremental income and sales taxes annually generated in the CRED. In addition, the bill limits the increment that may be captured by these new CREDs to 75% of the incremental income and sales taxes. The State Budget Agency must approve the resolution designating a CRED before incremental income and sales taxes may be allocated to a city designating a CRED. If the approval is obtained for any of the new CREDs, the state would forgo 75% of any new income or sales tax revenue up to \$750,000 per year that is generated by the development in these new CREDs. To this date, no incremental income or sales taxes have been captured by the existing CREDs in Bloomington, Marion, and South Bend. (Note: The bill does not reduce the incremental income and sales tax capture limit for existing CREDs. Thus, Bloomington, Marion, and South Bend CREDs would still be able to capture up to \$1.0 M per year generated by CRED development.)

The incremental income and sales tax revenue will be transferred to the Industrial Development Fund of the city establishing the CRED. The covered taxes which will be included are Sales Tax, Adjusted Gross Income Tax, County Adjusted Gross Income Tax, County Option Income Tax, and County Economic Development Income Tax. State sales and income taxes are generally deposited in the state General Fund and Property Tax Replacement Fund. The tax loss from the establishment of this district is restricted to 15 years.

[SEC. 197-198] Hoosier Business Investment Tax Credit: The bill establishes the Hoosier Business Investment Tax Credit to be awarded by the EDGE Board for qualified investment during tax year 2004 and 2005 only; but unused credits may be carried over for up to nine years. This new tax credit could potentially reduce revenue from the Adjusted Gross Income (AGI) Tax, the Insurance Premiums Tax, and the Financial Institutions Tax by an indeterminable amount. The bill is effective July 1, 2003. Thus, depending upon how quickly the EDGE Board begins the tax credit determination process, the bill could potentially affect state revenue beginning in FY 2004, but more likely in FY 2005.

Under the bill, the EDGE Board is authorized to award a taxpayer (an individual, corporation, partnership, or other entity with a tax liability) a nonrefundable tax credit for expenditures on qualified investment that the Board determines will foster job creation and higher wages in Indiana. The investment tax credit is equal to 30% of the taxpayer's qualified investment. The credit amount can be used in the taxable year in which the investment is made and the nine taxable years that follow. The credit amount that the taxpayer may claim in the taxable year in which the investment is made is equal to the lesser of: (1) 30% of the qualified investment or (2) the taxpayer's state tax liability growth. The state tax liability growth is the difference between the taxpayer's state tax liability in a taxable year minus the greater of: (1) the taxpayer's state tax liability in the most recent prior taxable year in which part of a credit was claimed or (2) the taxpayer's tax liability in the taxable year immediately preceding the taxable year in which the investment was made. The taxpayer may carry forward any remaining credit amount for the next nine taxable years. In each of these taxable years, the credit amount claimed may not exceed the difference between the taxpayer's tax liability in that taxable year and the taxable year in which the qualified investment was made. The tax credit is limited to the amount of qualified investment that is directly related to expanding the workforce in Indiana; and the tax credit may not be awarded in relation to jobs that a taxpayer is relocating from one Indiana site to another.

A taxpayer may claim the credit against a taxpayer's Adjusted Gross Income (AGI) Tax, Insurance Premiums Tax, or Financial Institutions Tax liability. If a pass through entity does not have a tax liability, the credit may be claimed by shareholders or partners in proportion to their distributive income from the pass

through entity. (A pass through entity is an S-Corporation, partnership, trust, limited liability company, or limited liability partnership.)

[SEC. 199] Blended Biodiesel Tax Credits: The impact of the three tax credits for the production and sale of biodiesel and blended biodiesel is unknown; however, it is presumed to be relatively small. Each of the three tax credits related to the production and sale of biodiesel is capped at \$1.0 M for all taxpayers and all taxable years.

The bill provides a credit of \$1.00 for each gallon of biodiesel manufactured in Indiana after January 1, 2004. Biodiesel is defined as a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats. Biodiesel is not currently produced in the state. If, however, enough pure biodiesel were produced to generate enough B2 blended biodiesel (petroleum diesel blended with 2% biodiesel) to replace 1% of the diesel purchased in Indiana for transportation, the credit would equal approximately \$200,000. Producing enough biodiesel to generate enough B2 blended biodiesel to replace 5% of the petroleum diesel used for highway transportation would result in a credit equal to \$1.0 M. It is not known how much biodiesel would be produced as a result of this credit. The National Biodiesel Board reports that there are 15 active legal plants in the United States and that approximately 10 M to 12 M gallons of biodiesel were consumed during CY 2002.

The bill also provides a credit of \$0.02 for each gallon of blended biodiesel (petroleum diesel blended with at least 2% biodiesel) produced in Indiana using biodiesel produced in Indiana. The impact of the credit is also unknown. However, again using the example shown above, if 1% of the petroleum diesel used in Indiana for transportation were replaced with Indiana-produced B2 biodiesel, the credit would equal about \$200,000. Replacing 5% of the petroleum diesel used for transportation would result in a credit equal to about \$1.0 M per year.

The biodiesel production and blending credits above would be reduced by any federal credit or subsidy that the taxpayer receives for producing or blending biodiesel.

The bill also establishes a \$0.01 credit for each gallon of blended biodiesel (petroleum diesel blended with at least 2% biodiesel) sold by Indiana retailers. If 1% of the petroleum diesel used in Indiana for transportation were replaced with Indiana-produced B2 biodiesel, the credit would equal about \$100,000 per year.

[SEC. 200] Ethanol Production Tax Credit: The bill caps the total amount of ethanol production tax credits allowed to all taxpayers in all taxable years at \$10.0 M. The bill provides a tax credit equal to \$0.125 per gallon of ethanol produced at qualified facilities. To be eligible to receive the credit, the ethanol must be produced at a facility that has the capacity to produce at least 40 M gallons of ethanol each year and be constructed after December 31, 2003, or an existing facility that increases production capacity by 40 M gallons a year after December 31, 2003. The facility would be required to be certified as eligible to receive the credit by the Indiana Recycling and Energy Development Board. The bill limits each taxpayer to a total credit amount of \$5.0 M. The total amount of ethanol production tax credits allowed to all taxpayers in all taxable years is capped at \$10.0 M.

The producer and retailer tax credits are not refundable, but may be carried forward to subsequent years. Taxpayers are not entitled to a carryback with either tax credit. If a taxpayer is a pass through entity and does not have a tax liability, the credit could be taken by shareholders, partners, or members of the pass through entity in proportion to their distributive income from the pass through entity. Since the tax credits are

effective beginning in tax year 2004, the fiscal impact could potentially begin in the second half of FY 2004 (due to sales tax credits and changes in estimated quarterly income tax payments). Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund. Since the tax credits are effective beginning in tax year 2004, the fiscal impact would begin in FY 2005. Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Loan Fund (0.033%).

It should be noted that reductions in state revenue as a result of the biodiesel and ethanol credits may be offset with tax receipts associated with increases in employment, capital expenditures, and other taxable activity that may not have occurred absent the incentives provided by the credits.

[SEC. 201-231] Port Commission: Under current statute, ports and other property of the Port Commission, interest on Commission revenue bonds, proceeds from the sale of the bonds, and receipt of the interest and proceeds is exempt from taxation in Indiana, except for the Financial Institutions Tax and the Inheritance Tax. The bill extends this tax-exempt status to nonmaritime port facilities and nonport projects of the Commission that are authorized by the bill. Thus, the bill could result in the exemption of additional investment income from taxation to the extent that taxpayers substitute investment in Port Commission revenue bonds for investments in taxable instruments.

[SEC. 268] Airport Development Zone Income Tax Exemption: Under current law, as an incentive to *locate* a qualified project in an airport development zone, a business that locates and operates a project in a zone will not incur a state income tax liability from these operations for a period of 35 years beginning in January 1991. This bill would allow this same benefit for a business that *retains* the project as well.

[SEC. 271-275] Income/Sales Tax Allocations in Distressed Counties: The bill provides for the allocation of incremental state Sales, Use, and Adjusted Gross Income (AGI) tax revenue to pay for industrial development projects designated by the Indiana Development Finance Authority (IDFA). These tax allocation projects are limited to counties determined under the bill to be “distressed areas.” Currently, there are six counties that would qualify under the bill (Blackford, Fayette, Greene, Lawrence, Orange, and Starke), and two other counties could potentially qualify in the near future (Pulaski and White). The amount of incremental tax revenue that could potentially be allocated to pay the costs of tax allocation projects statewide is indeterminable. However, the bill limits tax allocations in each qualifying county to a total of \$500,000 and limits the duration of such tax allocations to two years after a beginning date specified by the IDFA. In addition, this law sunsets on July 1, 2005. The amount of incremental tax revenue diverted to tax allocation projects presumably does not represent a revenue loss to the state to the extent that the incremental revenue is attributable to the industrial development project or subsequent economic activity in project facilities. However, the state does incur a revenue loss to the extent that the diverted revenues are attributable to underlying growth in tax revenue. Sales and Use Tax collections increased from FY 1998 to FY 2002 by an annual average of 3.75%. During the same period, individual AGI Tax collections increased about 0.8% annually. (This includes the one-year decline in FY 2002 of about 6.3%.) From FY 1998 to FY 2001, however, individual AGI Tax collections increased by an average of 3.26% annually. These provisions of the bill are effective July 1, 2003. Thus, depending upon how quickly the IDFA begins the tax allocation project designation process, the bill could potentially impact state revenue beginning in FY 2004, but more likely in FY 2005.

[SEC. 283] *Local Revenue Sharing*: The bill requires the FY 2003 set aside of Wagering Tax revenue for local revenue sharing to be deposited in the state General Fund before July 1, 2003. This would increase revenue to the state General Fund by \$33.0 M in FY 2003. P.L. 192-2002(ss) earmarks the first \$33.0 M in Riverboat Wagering Tax collections during a fiscal year for revenue sharing among non-riverboat counties and the cities and towns located in these counties. The money set aside for revenue sharing at the beginning of a fiscal year must be distributed before August 15th of the next succeeding fiscal year. Thus, the first \$33.0 M in revenue sharing set aside occurred in July and August of 2002. This money has not yet been distributed, but, under current law, must be distributed by August 15, 2003.

Explanation of Local Expenditures: [SEC. 122-127] *Department of Correction (DOC) Provisions:*

Faith-Based Programs in Community Corrections Programs -- Under current law, community corrections advisory boards are not prohibited from developing a community corrections program that is based on a religious faith. However, this provision would specifically permit boards to create such programs. Any programs developed would be at the initiative at the local level.

Forensic Diversion Program – Each community corrections advisory board will be required to develop a diversion program. The program's aim is to place offenders convicted of a crime and determined to either be mentally ill or having an addictive disorder in adequate community-based care or services instead of in jail or DOC facilities. Depending on the type of care needed, this would likely require an arrangement between the community corrections program and the local community mental health associations to supervise these offenders. Some counties have reportedly already developed diversion programs for mentally ill persons. The Department of Correction would have the discretion to fund this program, depending on the amount of funding available.

[SEC. 135-174] *School Funding and Education Provisions*: The bill allows schools to pay a portion of their utilities and property or casualty insurance from their capital projects fund. For most schools the expenditures from the capital project fund would be limited to the actual cost of the utilities or insurance or 1% of their CY 2003 school formula revenue. Schools that have a decrease in school formula revenue of 2% or more could spend up to an additional 1% of their 2003 school formula revenue from the capital projects fund for utilities and property or casualty insurance.

School Transfers: Schools are allowed to transfer money from other funds to offset the reduction in state appropriations for the regular transportation, special and vocational education transportation, and ADA Flat Grant. The transfer is up to the amount the school receives from the state for FY 2004 and twice the amount of the FY 2004 transfer for FY 2005. The following table shows the maximum amount of the transfers.

| | FY 2004 | FY 2005 |
|---------------------------------------|----------------|----------------|
| Regular Transportation | 11,997,909 | 23,995,818 |
| Special and Vocational Transportation | 4,450,050 | 8,900,100 |
| ADA Flat Grant | 17,927,299 | 35,854,598 |

A school can not increase or decrease the levy of the fund that provides the transfer or receives the transfer.

Madison Consolidated Schools: Madison Consolidated School Corporation would receive an adjustment to

their previous year's revenue in the school formula for CY 2004. The adjustment equals the difference in the reduction in revenue from the dual enrollment adjustment and the additional revenue the school received from counting the students as full-time students instead of on a pro rata basis for CY 2000.

[SEC. 247-248] Local Homestead Credit: Under current law, counties that have adopted the County Option Income Tax (COIT), may use part of the proceeds from that tax to fund an additional homestead credit of up to 8%. This language would replace the 8% cap with a new cap calculated separately for each affected county. This language does not affect the cost of the state-funded portion of the homestead credit in any way.

Recent changes to homestead credit calculations, including changes resulting from HEA 1001-2002(ss) and an interpretive change, could reduce the counties' cost for local homestead credits. COIT proceeds that are not used for homestead credits are distributed to the civil taxing units in the county as "certified shares".

This provision would make an adjustment to the local rate cap that will compensate for the changes in the homestead credit base. The bill allows counties to adopt a new local homestead credit rate beginning with property taxes paid in 2003.

There are currently ten counties that provide local homestead credits. One county has a 2% credit, one has a 4% credit, one has a 5% credit, and seven counties have an 8% credit. The counties and credit percentages are as follows:

| County | Local Homestead % |
|-------------|-------------------|
| Allen | 8% |
| Madison | 8% |
| Marion | 5% |
| Miami | 8% |
| Monroe | 8% |
| Perry | 4% |
| St. Joseph | 8% |
| Spencer | 2% |
| Tippecanoe | 8% |
| Vanderburgh | 8% |

[SEC. 249-253] Wayne County Innkeeper's Tax Matters: Under the bill, the Wayne County Innkeeper's Board of Managers would be allowed to either finance facilities or enter into contracts with an entity that is a sole proprietorship, partnership, association, corporation, limited liability company, fiduciary, or individual to assist in financing of facilities to be used for the development and growth of the convention and tourism industry in the county.

Under resolution of the Board and by ordinance of the county fiscal body, tax revenues from the Innkeeper's Tax may be pledged to pay bond principal or interest, lease rental payments, or other obligations of the county to finance the above mentioned facilities. The Board and county may require financial or other reports from entities that received funds including for the finance of facilities under this provision. Interest may be paid from tax revenues pledged by the Board on obligations entered into by an above-listed entity that has a contract with the Board for the financing of a facility.

The Wayne County Treasurer would be required to establish a separate fund to receive deposits from the tax increase allowed under the bill. (See *Explanation of Local Revenues*) Money in the account would be required to be used for the following purposes: debt service on bonds and interest on obligations related to the financing of a facility described above.

[SEC. 254-258] County Economic Development Income Tax (CEDIT): Under the bill, A county that meets certain qualifications concerning their courthouse would be allowed to impose CEDIT at a maximum rate of 0.25% and have a combined County Option Income Tax (COIT) and CEDIT rate of 1.25%. The qualifications for the CEDIT rate imposition under this provision include a courthouse that is under a federal district court order applying to an action commenced before January 1, 2003, that requires the county to comply with the Americans with Disabilities Act. The county must have insufficient revenues to finance the construction, acquisition, improvement, renovation, equipping, and operation of the courthouse and related facilities. Under this provision, a county council that adopts an ordinance to impose CEDIT at a rate not exceeding 0.25% would be required to include a finding that additional tax revenue is needed to cover the costs of the above-listed items and any economic development projects described in the county's capital improvement plan.

The bill would require the county auditor to send a certified copy of the ordinance for any imposition of CEDIT to the Department of State Revenue. The county treasurer would be required to establish the county facilities revenue fund to be used only for the purposes described above.

[SEC. 276] Joint Investment Funds: By pooling investments in one fund, this bill may reduce administrative costs associated with the investment of public funds for participating political subdivisions. Political subdivisions are not required to participate in the joint investment fund. Expenses of the fund are to be paid from the fund. The fiscal impact of this bill is dependent on local action.

[SEC. 281] Airport Authority Cumulative Funds: Under current law, airport authorities may impose a cumulative fund levy that may be used to acquire real property or to construct, enlarge, improve, remodel, repair, or equip buildings, structures, runways or other facilities for use in connection with the airport and needed to administer the airport. The bill would additionally allow money in the fund to be used to facilitate and support commercial intrastate air transportation. Spending from the fund for this new use would have a lifetime limit of \$1 M. This bill would expand the possible use of the fund, but would not change any levy authority. There were 13 local airport authorities in CY 2002. Ten of them had cumulative funds with a total levy of \$1.8 M.

Explanation of Local Revenues: *[SEC. 84-92, and 94] County Children's Psychiatric Residential Treatment Services Fund:* The bill establishes a separate property tax levy for the payment of children's psychiatric residential treatment services. The bill defines specific private residential treatment facilities that may provide services to certain Medicaid-eligible children in need of inpatient psychiatric treatment. Under current law, the counties have provided payment for inpatient residential treatment services for children determined to be wards of the court from the County Family and Children's Fund at 100% of the cost. This

bill would provide a methodology for leveraging Medicaid funding when available, allowing the county to provide only the state share of the Medicaid program cost.

The property tax levy for 2004 would be equal to the greater of (1) the average annual amount of property tax paid by a county to children's facilities from 2000 to 2002 or (2) the amount paid in 2002; multiplied by both the 2003 and 2004 assessed value growth quotients. The DLGF would adjust this levy amount to reflect actual expenses. The tax levy for this fund in all years after 2004 would be equal to the previous year's levy multiplied by the current year's assessed value growth quotient.

The county's 2004 family and children's fund levy would be reduced by the amount of tax levied in the new fund. This action ensures that there is no overall change in property tax levies under this provision. Excess balances in the county children's psychiatric treatment services fund would be transferred to the county general fund to be used to pay the amount billed to the county for the care and maintenance of inmates housed at the Plainfield and Indianapolis juvenile correction facilities.

[SEC. 121] Solid Waste Management District (SWMD) Levy Apportionment: This provision would permit the DLGF to determine each county's share of a multi-county SWMD's 2003 levy based on the counties' proportions of the 2002 levy. This provision would allow the DLGF to set tax rates in counties that are finished with reassessment even if those counties participate in a multi-county SWMD that includes counties that have not yet certified their new assessments. The overall levy is unaffected by this provision.

[SEC. 180-184] Indiana Headquartered Airlines: Effective with property taxes paid in 2004, this bill would provide a 100% property tax deduction for (1) passenger aircraft with a seating capacity of 90 passengers or less and (2) cargo aircraft that are owned by an air carrier or scheduled air taxi operator. To qualify for the deduction, the owner must have its corporate headquarters in Indiana or be a subsidiary of another corporation with its headquarters in Indiana.

The bill would subject the airline property that is receiving the 100% property tax deduction under this bill to the aircraft excise tax. This tax is assessed on aircraft at different rates based on the type of engine, the maximum landing weight, and the age of the aircraft.

Two airline taxpayers in Indiana would have been affected by this provision, but their reincorporation in Indiana as of February 26, 2003, made their aircraft exempt from property tax and subject to excise tax beginning in 2004 under current law. No other current airline taxpayers were identified as being affected by this provision.

Under current law, the Indianapolis Public Schools Capital Projects Fund (CPF) would have lost about \$307,000 per year because of the taxpayer's change in domicile and resulting loss of assessed valuation. Beginning with taxes paid in 2004, the IPS CPF property tax rate limit would be increased under this bill so that the levy that would have been lost due to the (current law) exemption of aircraft would instead be shifted to other taxpayers in the IPS district.

[SEC. 201-231] Port Commission: Under current statute, ports and other property of the Port Commission are exempt from property taxation in Indiana. The bill extends this tax-exempt status to nonmaritime port facilities and nonport projects of the Commission that are authorized by the bill. In addition, the bill extends a current property tax exemption for leaseholds in Port Commission land. Under current law, a lessee's leasehold estate in land that is part of a port is exempt from property tax. Under the bill, a lessee's leasehold estate in land that is part of a nonmaritime port facility authorized by the bill is also exempt from property

taxation. The bill could potentially affect property tax revenue to local units given that it substantially expands the types of projects that the Port Commission may finance and build. This fiscal impact would arise due to the tax-exempt status of Port Commission property and the property tax exemption relating to land provided to lessees of Port Commission facilities.

[SEC. 232-243] CRED Designation: This bill allows the City of Indianapolis and all second class cities to establish one Community Revitalization Enhancement District (CRED). This authorization would include cities that currently have a CRED. Under current law, CREDs are limited to the City of Marion and municipalities in Allen, Delaware, Monroe, and St. Joseph counties. The number of new CREDs that could potentially be established under the bill is indeterminable and contingent on response by the newly authorized cities. In addition to Indianapolis, there are 21 second class cities. Currently, there are CREDs in Bloomington, Marion, and South Bend (all of which are second class cities).

As under current law, the bill allows a CRED to be designated in these cities by an advisory commission on industrial development. The commission resolution designating the CRED must be submitted to the Budget Committee for review and recommendation to the State Budget Agency (SBA). The SBA must approve the resolution before incremental income and sales taxes may be allocated to the CRED. However, the bill does not require the CRED to meet usable building space and employment criteria required under current law. Under the bill, a CRED may be designated if the commission finds both (1) and (2) exist:

(1) That the redevelopment of the area in the CRED will:

- (a) promote significant opportunities for gainful employment of its citizens;
- (b) attract a major new business enterprise to the area; or
- (c) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

- (a) obsolete or inefficient buildings;
- (b) aging infrastructure or ineffective utility services;
- (c) utility relocation requirements;
- (d) transportation or access problems;
- (e) topographical obstacles to redevelopment;
- (f) environmental contamination;
- (g) lack of development or cessation of growth;
- (h) deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings; or
- (i) other factors that have impaired values or prevent a normal development of property or use of property.

CRED Income Tax Increment Allocation: This bill will allow additional cities that designate a CRED under the bill to capture 75% of the incremental income taxes generated from new development in the CRED. This revenue is to be deposited in the Industrial Development Fund of the city designating the CRED. The covered taxes which will be included are CAGIT, COIT, and CEDIT. The local taxing units which would normally receive a share of the total local option income taxes generated in the CRED under current statute will not receive 75% of the incremental revenue generated. The bill allows money in the Industrial Development Fund to be pledged by the advisory commission to pay debt service on bonds and to maintain a debt service reserve fund.

The State Budget Agency must approve the resolution designating a CRED before incremental income and sales taxes may be allocated to a city designating a CRED. To this date, no incremental income taxes have been captured by the existing CREDs in Bloomington, Marion, and South Bend. The district is limited to 15 years. Current law also allows all taxing units, except townships, to impose a levy for the Industrial Development Fund at a rate of up to \$0.0167 per \$100 of assessed valuation. The proceeds from the tax levy may be pledged for the payment of bonds and obligations issued in a CRED.

[SEC. 246] Excessive Levy Appeal: This bill would allow a county to appeal to the state's Local Government Tax Control Board for permission to exceed its maximum permissible levy to fund county jail or juvenile detention center operations if:

- 1) The jail or detention center is subject to a federal order that has not been terminated;
- 2) The jail does not meet both jail construction and jail operation standards; or
- 3) The detention center does not meet both detention center construction and operation standards.

An increase in the property tax levy would result in a higher tax rate. The state would not have any additional PTRC or homestead credit liability under this provision. There are nine counties that are wholly or partially under federal court order: Allen, Clark, Clay, Crawford, Daviess, Knox, Marion, Vanderburgh, and Wayne.

[SEC. 249-253] Wayne County Innkeeper's Tax Matters: Under the bill, Wayne County could, under ordinance by the fiscal body, raise their Innkeeper's Tax by 1% above the current 5% rate. The increase in rate would only apply for providing funds to either finance or enter into contracts with an entity to assist in the finance of facilities to be used for the development and growth of the convention and tourism industry in the county. The rate increase may not be imposed beyond the time required to pay the costs to finance the facilities or assist an entity that the Wayne County Innkeeper's Board of Managers has contracted with to finance the facilities. The county fiscal body would not be able to rescind the additional tax if any outstanding principal, interest, lease rentals, or any other obligation is still in existence and remains unpaid. Wayne County currently imposes a 5% Innkeeper's Tax which generated \$437,615 in FY 2002. Based on FY 2002 collections, an additional 1% would generate approximately \$88,000 annually.

[SEC. 254-258] County Economic Development Income Tax (CEDIT): A county meeting certain qualifications related to their courthouse may impose CEDIT at a maximum rate of 0.25% and have a combined County Option Income Tax (COIT) and CEDIT rate of 1.25%. Revenue raised from the imposition of CEDIT that is necessary to pay for courthouse-related matters would be deposited into the fund. The remainder of the revenue would be deposited into the economic development income tax fund of the county's units.

An ordinance to impose CEDIT, under this provision, may be adopted at any time. An ordinance that is adopted before June 1 of a year would impose the tax rate effective July 1 of the same year. An ordinance adopted after May 31 of a year would impose the tax rate effective the January 1 immediately following adoption of the ordinance.

Revenue deposited into the county facilities revenue fund may not be considered by the Department of Local Government Finance when determining the county's ad valorem property tax levy for an ensuing calendar year.

Under the bill, if the county adopted CEDIT before June 1, 2003, the Department would take the ordinance into account and distribute the Certified Distribution for imposed CEDIT in May and November of CY 2004. If the county adopted CEDIT after May 31, 2003, the Department would issue an initial or revised certified

distribution which the county would receive entirely on November 1, 2004.

Currently, Fayette County is the only county known to meet the requirements of this bill. They currently impose COIT at a 1.0% rate and do not impose CEDIT. A 0.25% rate would generate approximately \$1 M in additional revenue per year as early as CY 2004 depending on the date of adoption.

Randolph County CEDIT: Under current law, Randolph County is allowed to impose the County Adjusted Gross Income Tax and the County Economic Development Income Tax (CEDIT) at a combined 1.5%. Randolph County currently imposes CEDIT at a 0.50% rate and imposes CAGIT at a 1% rate. Under current law, the ordinance authorizing the additional 0.25% increase to CEDIT must have determined that the revenue generated by the additional rate increase was necessary for the financing, construction, acquiring, renovating, and equipping the county courthouse and renovating the former county hospital for additional office space, educational facilities, and nonsecure juvenile facilities, plus additional county functions, and to repay bonds issued or leases entered into for those purposes.

The bill removes the courthouse renovation from the consideration of the county's CEDIT rate increase and adds the financing, construction, acquiring, renovation, and equipping of buildings for a volunteer fire department to provide services in any part of the county and to repay bonds issued or leases entered into for this purpose.

Background: In 2002, Randolph County issued bonds for the renovation of the county hospital. The bond principle is approximately \$5.8 M. The bond repayment schedule expires in 23 years, for an annual average payment of approximately \$250,000. In CY 2003, the Randolph County CEDIT certified distribution was \$1,865,566 at a 0.5% rate. The CY 2002 CEDIT certified distribution for the county was \$1,317,271 at a 0.25% rate.

[SEC. 266-267] Aircraft Property Tax Exemption: Under this provision, a taxpayer in an airport development zone may claim an exemption from property tax on commercial passenger aircraft if:

- (1) The airport authority board (redevelopment commission in Marion County) adopts a resolution authorizing the exemption;
- (2) The taxpayer is a tenant or subtenant of the airport project and a user of the project;
- (3) The aircraft will be in the zone for maintenance purposes; and
- (4) If bonds were issued, either (a) the pledge of allocated tax proceeds has been discharged or (b) the bonds have been paid in full.

The exemption would reduce the amount of property taxes that are captured in the allocation area. However, according to the bill, this could not be done if bond payments would be jeopardized. In addition, this would be a local decision so the impact would depend on local action.

[SEC. 269] Blighted Area Redevelopment Bonds: Under this provision, the redevelopment commission may issue bonds to acquire and redevelop property. Under this provision, any bond issue of \$3 M or more would have to be approved by the legislative body of the unit. This provision adds additional oversight to the bonding process.

[SEC. 279-280] Intrastate Carrier Deduction: This provision provides a 100% property tax deduction for the assessed value of aircraft used in operations between an Indiana hub airport and another Indiana commercial service airport or between two Indiana commercial service airports. This deduction would be available only if the taxpayer or any other taxpayer provides regular air service between (1) Indianapolis and South Bend and (2) Indianapolis and Evansville. Currently, there are no taxpayers that would qualify for this

deduction. If an airline or airlines begin to provide the specified intrastate service, some or all of their aircraft valuation could be deducted. In this case, total AV would not be reduced because the property was not located here to begin with. However, the deduction would keep the AV from being added to the tax base. If the airline is incorporated in Indiana or has an Indiana corporate headquarters, then the airline would be still be required to pay aircraft excise tax on its fleet.

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources: Available from Legislative Services Agency.

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